



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 2, 1998

Mr. Scott A. Kelly
Associate General Counsel
The Texas A&M University System
John B. Connally Building
301 Tarrow, 6th Floor
College Station, Texas 77843-1230

OR98-0007

Dear Mr. Kelly:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111387.

Texas A&M University (the "University") received a request for information responsive to a Request for Proposal ("RFP") concerning the scoreboard/message center for the Reed Arena. However, you assert the bidders' responses to the RFPs are excepted from required public disclosure based on section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.104 of the Government Code states:

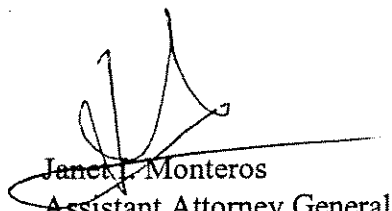
Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

The purpose of this exception is to protect the interests of a governmental body in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 is not designed to protect the interests of private parties that submit information to a governmental body. *Id.* at 8-9. This exception protects information from public disclosure if the governmental body demonstrates potential specific harm to its interests in a particular competitive situation. *See* Open Records Decision Nos. 593 (1991) at 2, 463 (1987), 453 (1986) at 3. A general allegation or a remote possibility of an advantage being gained is not enough to invoke the protection of section 552.104. Open Records Decision Nos. 541 (1990) at 4, 520 (1989) at 4.

In this instance, the RFP concerns a contract for the purchase of an electronic scoreboard/message center for the University's Reed Sports Arena which is currently under construction. You inform this office that the University's Director of Purchasing Services advises that the scoreboard/message center contract has not been awarded and the bids are currently being evaluated. The bidding at this point is competitive and, therefore, information relevant thereto may be withheld under section 552.104. Attorney General Opinion MW-591 (1982); Open Records Decision No. 170 (1977); *see* Open Records Decision No. 541 (1990).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Janet L. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref: ID# 111387

Enclosures: Marked documents

cc: Ms. Michelle L. Brenckman
President
Campus Communications, Inc.
P.O. Box 3973
College Station, Texas 77844
(w/o enclosures)